

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

JANET DONOVAN,

:

Plaintiff

:

CIVIL ACTION NO. 3:14-1657

v.

:

(JUDGE MANNION)

:

**PITTSTON AREA SCHOOL
DISTRICT, *et al.*,**

:

:

Defendants

:

ORDER

In light of the memorandum issued this same day, **IT IS HEREBY ORDERED THAT** defendants' motion to dismiss, (Doc. [11](#)), is **GRANTED IN PART** and **DENIED IN PART**. Counts I and III of plaintiff's amended complaint, (Doc. [9](#)), are **DISMISSED WITHOUT PREJUDICE** for failure to exhaust statutory remedies. Plaintiff's 14th Amendment substantive due process claim in Count II is **DISMISSED WITH PREJUDICE**. Plaintiff's constitutional claim against PASD is **DISMISSED WITHOUT PREJUDICE** to file a second amended complaint to properly state a procedural due process claim against this defendant under *Monell*. Plaintiff is directed to file her second amended complaint only to correct her defect as to PASD in Count II within **15 days** of the date of this Order. Plaintiff's claims against the five board of education members in their official capacity are **DISMISSED WITH**

PREJUDICE. Plaintiff's 14th Amendment procedural due process claim in Count II is **PERMITTED TO PROCEED** as against the five board of education members in their individual capacity. Plaintiff's claim for punitive damages in Count II against the five board members in their individual capacity is **PERMITTED TO PROCEED.** Plaintiff's claim for attorneys' fees in Count II is **PERMITTED TO PROCEED.**

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: June 17, 2015

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